

MAY 11 2006

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUDAS PRECIADO ROCHA,

Defendant - Appellant.

No. 05-50672

D.C. No. CR-04-00623-ABC-01

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Audrey B. Collins, District Judge, Presiding

Submitted May 4, 2006^{**}
Pasadena, California

Before: LAY^{***}, KLEINFELD, and SILVERMAN, Circuit Judges.

^{*} This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

^{**} This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

^{***} The Honorable Donald P. Lay, Senior United States Circuit Judge for the Eighth Circuit, sitting by designation.

Judas Preciado Rocha appeals the sentence imposed following his guilty plea conviction for felon in possession of a firearm, in violation of 18 U.S.C. § 922(g)(1).

Rocha first claims that his sentence is unreasonable because the district judge rejected his request for a probationary sentence with intermittent confinement which would allow him to keep his job. The district judge explicitly considered probation and the possibility that Rocha might lose his job and decided that a probationary sentence was insufficient under the other factors in § 3553.¹ This was a reasonable determination, well within the district court's discretion.²

Rocha also argues that the district court failed to make an adequate Rule 32 ruling on the number of guns that Rocha possessed.³ It was not clear that Rocha was putting the number at issue, as opposed to whether he could be sentenced to the true number when his guilty plea was only to one. The district court reasonably

¹ 18 U.S.C. § 3553.

² See United States v. Booker, 543 U.S. 220, 264-66 (2005).

³ Fed. R. Crim. P. 32(i)(3).

considered all the guns as “relevant conduct,” and expressly found that “the defendant had so many guns, had four guns.”

AFFIRMED.